IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 7452/2003

SHAMBHU DAYAL GUPTA Vs. THE STATE OF RAJASTHAN & ORS.

Date: 08.11.2006.

HON'BLE MR. K.S. RATHORE, J.

Mr. Babu Lal Gupta for the petitioner.
Mr. B.S. Chhaba, Addl. GA for the State.

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The short controversy in this writ petition is that vide order dated 14.07.2003, the benefit of selection section granted to the petitioner after completion of 18 years of service vide order dated 12.02.93 has been withdrawn and the payment which has been made in lieu of selection scale was ordered to be recovered from the petitioner.

Learned counsel for the petitioner submits that the benefit of selection scale granted to the petitioner after completion of 18 years of service, cannot be withdrawn after retirement of the petitioner. After giving the benefit of selection scale after completion of 18 years of service, the same has been withdrawn on the ground that the petitioner was awarded punishment of censure vide order dated 27.08.90.

Learned counsel for the petitioner has placed reliance on the judgment rendered by the Division Bench of this Court in the case of ***Smt. Pushplata Thada & 41 Ors. Vs. State & Ors., decided on 26.04.2001 and reported in 2001(2) WLC(Raj.) 560,*** wherein the Division Bench has held that withdrawal of selection grade and recovery thereof- Action involves civil consequence and not sustainable except by issuing show case notice.

Here in the instant case, the order of withdrawal of selection scale has been passed without issuing any show cause notice to the petitioner. Even the petitioner is not entitled on the ground of punishment of censure, the respondents are required to issue show cause notice to the petitioner.

Thus, in view of the ratio decided by the Division Bench of this Court in the aforementioned case of ***Smt. Pushplata Thada & 41 Ors. (supra),*** the present writ petition stands allowed and the impugned order dated 14.07.2003 is herewith quashed and set-aside. As the petitioner already retired, therefore, recovery also shall not be made effective.

(K.S. RATHORE),J.

/KKC/